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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/672,612	09/26/2003	Steven T. Charles	2189	3698

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EXAMINER

FARAH, AHMED M

ART UNIT PAPER NUMBER

3735

DATE MAILED: 03/24/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/672,612	Applicant(s) CHARLES, STEVEN T.	
	Examiner Ahmed M. Farah	Art Unit 3735	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 11 and 12 is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>01/30/04;08/04/04</u> . | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Information Disclosure Statement

The information disclosure statement (IDS) filed January 30, 2004, fails to comply with 37 CFR 1.98(a)(2), which requires a legible copy of each cited foreign patent document; each non-patent literature publication or that portion which caused it to be listed; and all other information or that portion which caused it to be listed. It has been placed in the application file, but the information referred to therein has not been considered. The a copy of the non-patent literature cited in the IDS filed on January 30, 2004, has not been submitted.

Claim Rejections - 35 USC § 102

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-4 and 8-10 are rejected under 35 U.S.C. 102(b) as being anticipated by Ren et al. US Patent No. 5,688,264.

Ren et al. disclose a laser apparatus for the treatment of retinal detachment, comprising: a handle 28; and a probe coupled to the handle comprising a curved distal portion 38 made from a flexible material (see col. 5, lines 7-10), the curved distal portion having a closed tip with a smooth surface capable of safely touching the retina as presently claimed (see Fig. 7 and Figs. 13a-13c).

With respect to claims 2, 3, 9 and 10, both the inner/ventral and outer/dorsal surfaces of the curved portion are capable of safely touching the retina.

With respect to claim 4, the apparatus of Ren et al. further comprises optical fibers disposed in the handle and curved portion, wherein the curved portion is capable of transmitting light from the optical fibers to an interior of said eye (see Fig. 7).

With respect to claim 7, Ren et al. further teach that the curved portion has a radius of curvature of approximately 13 mm (see col. 5, lines 6-7). This curvature is within the radius curvature of an adult human eye, which is approximately between 11-14 mm.

Claims 1-10 are rejected under 35 U.S.C. 102(1) as being anticipated by Yaacobi et al. US Patent No. 6,413,245.

Yaacobi et al. disclose an apparatus for the treatment of retinal detachment, comprising: a handle 56; and a probe 54 coupled to the handle, the probe comprising a curved distal portion 52 made from a flexible material (see col. 5, lines 5-11), the curved distal portion having a closed tip 62 with a smooth surface capable of safely touching the retina as presently claimed (see Figs. 2 and 3B-3C).

With respect to claims 4-6, the apparatus comprises a light delivery optical fiber and distal portion having a light-transmitting window (Figure 3E).

With respect to claim 7, Yaacobi et al. teach that curved portion has a radius of curvature substantially equal to a radius of curvature of an adult human eye (see col. 5, lines 25-29). They further teach that the curvature "is preferably about 11.5 mm to about 14 mm, and most preferably about 12.5 mm" (see col. 5, lines 64-67).

Allowable Subject Matter

Claims 11 and 12 are allowed. The prior art of record fails to teach disclose or suggest a method for displacing sub-retinal fluid from a space between a retinal detachment or a retinal tear and a choroids of an eye, the method comprising the steps of: inserting a probe having a curved distal portion made from a flexible plastic within a vitreous cavity of the eye above said retinal detachment or retinal tear, said curved distal portion having a smooth outer surface capable of safely touching the retina, and moving said distal portion so that the outer surface of curved portion contacts the inner surface of the retina and displaces a sub-retinal fluid therein as presently claimed.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ahmed M. Farah whose telephone number is (571) 272-4765. The examiner can normally be reached on Mon-Thur 9:30 AM-7: 30 PM, and 9:30 AM - 6:30 PM.

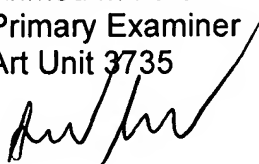
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Patricia Bianco can be reached on (571) 272-4940. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only.

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For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Ahmed M Farah
Primary Examiner
Art Unit 3735

A handwritten signature in black ink, appearing to read 'Ahmed M Farah', is written over the printed name and title.

March 10, 2006.